IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 63/2006
AND
CIVIL APPLICATION NO. 257/2006

Shree Sateri Devasthan Trust. ..... Appellant.

V/s.

Shri Tatu M. Gawde and others. ..... Respondents.

Mr. Mandar Khandeparkar, Advocate for the appellant.

Mr. N. Sardessai, Advocate for the respondents.

CORAM : P.V. KAKADE, J.

DATE : 20TH NOVEMBER, 2006.

P.C.

Heard learned Counsel for both the parties. Perused the record. The aggrieved plaintiff has filed this appeal against the order passed by the Civil Judge, Sr. Division, Vasco da Gama, Goa rejecting the application for temporary injunction in Special Civil Suit No.8/2006 filed by the plaintiff for perpetual and mandatory injunction.

2. The plaintiff is a registered Trust under the Indian Trust Act and is registered with the Sub-Registrar of Mormugao Taluka at Vasco in

the year 2004 and is represented by its Chairman who has been specifically authorised to institute suit in the name of the Trust. According to the plaintiff, Shree Sateri Devasthan is governed and administered by virtue of the Trust Deed which came into being on 31.3.04. It is the case sought to be made out on behalf of the plaintiff that the defendants have illegally taken over the administration of the Devasthan and are collecting donations etc. and are even issuing receipts without signing them. In other words, according to the plaintiff, the Devasthan is being illegally administered by the defendants on the ground that they are the administrators of the Devasthan and, hence, the suit came to be filed. Along with the suit, an application for temporary injunction was also filed to restrain the defendants from administering the Devasthan in any manner whatsoever.

3. The learned trial Judge, after hearing both the parties and on the basis of the available record, came to the conclusion that the plaintiff had not established the prima facie case. It was further held that the balance of convenience also tilted in favour of the defendants and, it was not proved how the plaintiff could suffer irreparable injury and, as such, the temporary injunction came to be dismissed. Hence, the appeal.

4. In the course of the order passed by the trial Court, it is observed that the trust deed, in question, does not indicate that it was formed to take over Shree Sateri Devasthan or that the possession of the temple was handed over to the plaintiff either by the defendants or its Mazanias by virtue of the said Trust. The lower Court also was of the view that there was no nexus between the Trust Deed and the administration of the Devasthan nor there was any prima facie evidence to show that the plaintiff Trust was rightful administrator of the said Devasthan and, as such, the application came to be dismissed.

5. In the course of the arguments advanced on behalf of both the parties, it was obvious that there was no prima facie case established on behalf of the plaintiff. However, the allegations, if perused, appear to be serious and, therefore, in my considered view, the entire administration of the Devasthan Temple is required to be protected pending the final adjudication of the dispute, on merits.

6. In the result, it is directed that the trial Court shall take up the matter as early as possible for hearing of the suit on merits, after giving opportunity to both the sides to lead their respective evidence. In the meantime, the defendants are directed to maintain accounts of the

Devasthan Temple and issue receipts, if any, by duly signing the same and all accounts shall be submitted to the trial Court for perusal after every three months, so as to enable the trial Court to supervise the administration of the Devasthan pending the dispute before the Court. The defendants shall also not create any third party interest in respect of the administration of the Devasthan or its properties, pending the dispute. With this direction, the appeal stands disposed of with no order as to costs. Consequently, the civil application also stands disposed of with no order as to costs. The hearing of the suit is expedited.

P.V. KAKADE, J.

ssm